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ALEXANDRIA, VA 22313-1450  
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Raymund F. Eich, Ph.D.  
Williams, Morgan & Amerson P.C.  
Suite 1100  
10333 Richmond  
Houston TX 77042

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JAN 20 2004

OFFICE OF PETITIONS

In re Application of  
Yang, Ching & Cai  
Application No.: 10/609,050  
Filed: June 27, 2003  
Attorney Docket No.: 2039.017500  
For: OXYGEN SCAVENGING POLYMERS AS  
ACTIVE BARRIER TIE LAYERS IN  
MULTILAYERED STRUCTURES

DECISION REFUSING STATUS  
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 27, 2003.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The instant application was filed on June 27, 2003 with a partially executed oath or declaration and a petition under 37 CFR 1.47(a). The petition, signed by Agent Eich, explains that non-signing joint inventor Cai was mailed and received a copy of the application and declaration for the above-identified application, but did not respond to two separate written requests that he sign the declaration for the patent application.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The citizenship of non-signing inventor Cai is not included on the declaration. The citizenship of each inventor must be included on the oath or declaration. As listing the citizenship for each inventor is a statutory requirement under 35 USC 115, it cannot be waived.

Both signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists Mr. Cai's citizenship and residence/ post office address.

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventor is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450  
Attn: E. Shirene Willis

**By hand:** Crystal Plaza 1 Lobby  
2011 South Clark Place  
Room 1B03  
Arlington, VA 22202  
Attn: E. Shirene Willis

**By FAX:** (703) 872-9306  
ATTN: Office of Petitions - E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

*E. Shirene Willis*

E. Shirene Willis  
Senior Petitions Attorney  
Office of Petitions